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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,831	04/17/2007	Giancarlo De Martiis	GLP001-US	6797
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Vern Maine & Associates 100 MAIN STREET P O BOX 3445 NASHUA, NH 03061-3445			EXAMINER NGUYEN, MAI T	
			ART UNIT 3671	PAPER NUMBER
			MAIL DATE 04/11/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/597,831

**Applicant(s)**

DE MARTIIS, GIANCARLO

**Examiner**

MAI T. NGUYEN

**Art Unit**

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1, 4, 7 and 12 are objected to because of the following informalities: some terms lack antecedent basis. When an element is first set forth, the element should be preceded by --a-- and not "the". See the following: In claim 1, "the rear" in line 5, "the upper profile" in line 12; in claim 4, "the lower part" in line 2, "the lower segment" in line 3; in claim 7, "the lower edge" in line 2; and in claim 12, "the rear end" and "the front end" in line 3. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites "there is normally a first slit" which is considered indefinite since it is uncertain whether "a first slit" is considered to be a part of the claimed invention. Claim 1 lines 1-2 "or similar equipment" is seen to be indefinite since it is unclear what would be covered by the phrase and should be deleted.

### ***Claim Rejections - 35 USC § 102***

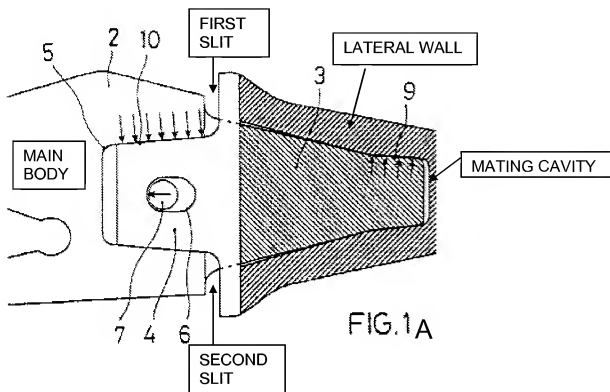
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 and 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Vinas Peya (US 5,918,391).

6. Regarding claims 1-3, Vinas Peya discloses a tooth in Figs. 1-13 and Fig. 1A below, comprising a work element 1, 18, a support element 2, 17 having a main body (unnumbered) and a front protrusion 3, 16 inserted in a mating cavity (unnumbered) on a rear of the work element, wherein a pin means 7 inserted in both the support element and work element, wherein the work element comprises appendices 4, 4', 28, 29 arranged symmetrical with respect to a median longitudinal axis, defined by an extension of a lateral wall (unnumbered) of the cavity and able to couple with a mating recess 5, 34, 35 defining an upper edge 12, 13, 32, 33, such that a first slit (unnumbered) is between the upper edge and an upper profile of the appendices, as best seen in Figs. 1, 3 and 7, and wherein a housing seating (unnumbered) for the pin means 7 is made partly in the appendices and partly in the main body, as best seen in Figs. 3, 4, 13, 14.



7. Regarding claim 4, Vinas Peya discloses the cavity is delimited at the lower part by a lower wall (unnumbered), wherein a second slit is between a lower segment of the main body and the lower wall, see Fig. 1A, and is capable of having a greater width than the first slit, as seen in Fig. 8 if a similar force 8 was put on the tooth in the opposite direction.

8. Regarding claim 5, Vinas Peya discloses the appendices 4, 4', 28, 29 are conformed substantially as a prism with a trapezoid base, see Figs. 1 and 7.

9. Regarding claim 6, Vinas Peya discloses the housing seating is defined by a through hole 6 on the appendices and corresponding holes (unnumbered) on the main body through which pin means 7 extends, see Figs. 3 and 11.

10. Regarding claim 8, Vinas Peya discloses the aperture 6 is slightly off-center relative to the front protrusion 3, as seen in Fig. 2, wherein insertion of pin means 7 determines alignment of the aperture and said through hole.
11. Regarding claims 9 and 10, Vinas Peya discloses the aperture 6 consists of a hollow, also considered an eyelet, of the appendix 4, 4', 28, 29, see Figs. 1, 2 and 5.
12. Regarding claims 11 and 12, Vinas Peya discloses the front protrusion 3, 16 has a transverse section that narrows from a rear end thereof, facing towards the main body to a front end thereof, see Figs. 1 and 5.
13. Regarding claim 13, Vinas Peya discloses the front protrusion 16 has a longitudinal groove created by surfaces 21, 22 on a face thereof, see Fig. 5.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vinas Peya in view of Robinson (US 6,240,663).
16. Regarding claim 7, Vinas Peya discloses a tooth assembly having a gap, as best seen in Fig. 1, extending a length between pin means 7 and a lower edge of the aperture 4 but does not disclose the gap is of greater amplitude than the width of the first slit. Robinson teaches a similar tooth assembly having a pin inserting hole 208

located further away from a lower edge of a rear end of a wear element 30, which would be considered similar to the appendix, wherein a gap has a length extending between hole 208 to a bottom edge of the wear element. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the hole of Vinas Peya located further from the bottom edge of a wear element as taught by Robinson in order to provide less stress to the mounting pin and thereby strengthen the mounting, which effectively provides a gap of greater amplitude than the first slit.

17. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinas Peya in view of Radigan (US 4,338,736).

18. Regarding claims 14 and 15, Vinas Peya discloses a tooth assembly having a pin means 7 but does not disclose pin means being partly deformable. Radigan teaches a similar tooth assembly having a pin means 16 having a section that is partly deformable elastically and wherein the pin means are axially hollow and have a longitudinal through cut, see Fig. 2 and column 2, lines 31-49. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the tooth assembly of Vinas Peya with a deformable pin as taught by Radigan in order to easily insert a pin to lock a wear element to a support of a tooth assembly.

**Conclusion**

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAI T. NGUYEN whose telephone number is (571)272-7662. The examiner can normally be reached on Monday-Friday 8:00a-5:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas B Will/  
Supervisory Patent Examiner,  
Art Unit 3671

Mtn  
3/26/08



